IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4721 of 1990

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADHUSUDAN GOPALKRUSHAN SHUKLA SINCE DECEASED THROUGH HEIRS

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

1. Special Civil Application No. 4721 of 1990

MR A.V. PRAJAPATI for Petitioners Nos. 1-1/4

MR DEEPAK C. RAWAL for MR M.R.ANAND for the Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 12/10/2004

ORAL JUDGEMENT

The petitioner, a Malaria Officer, seeks revision

of pay pursuant to the award dated 5th November, 1988 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No.99/1983.

One Vinaben Desai working as an Assistant Entomologist in Malaria Department of the Ahmedabad Municipal Corporation (hereinafter referred to as "the Corporation") raised industrial dispute and claimed revision of pay from Rs.700-1300 to Rs.1400-2700 with effect from 1st January, 1980. The said pays-scale claimed by the said Vinaben Desai was reduced to Rs.1100-1600. The dispute raised by the said Vinaben Desai was referred to the Tribunal and registered as above. The said reference was allowed by the judgment and award dated 5th November, 1988. The Tribunal held that the pay-scale of the senior Entomologist was required to be revised to Rs.1100-1600 with effect from 1st January, 1980.

The petitioner, a Malaria Officer, has claimed that the post of Malaria Officer was superior to that of Assistant Entomologist. The pay of the Malaria Officer should not be less than the pay of Assistant Entomologist. The petitioner has, therefore, prayed that his pay be revised in the scale of Rs.1100-1600 with effect from 1st January, 1980 and be further revised to Rs.3000-4500.

It is submitted that the petitioner was appointed as Assistant Entomologist in the month of July, 1960. He came to be appointed as Malaria Officer in the year 1972. At the relevant time the pay-scales of the Assistant Entomologist and the Malaria Officer were at par i.e. Rs.290-735. The said scale, pursuant to the I.G.Thakore award, came to be revised to Rs.700-1300 with effect from 1st January, 1976. It is submitted that at all relevant times the pay-scale for the Assistant Entomologist and the Malaria Officer was the same i.e. for the purpose of pay-scale the post of Malaria Officer has been considered to be equivalent to that of Assistant Entomologist. The petitioner has, therefore, prayed that the pay-scale of Malaria Officer be revised to Rs.1100-1600 with effect from 1st January, 1980.

The petition is misconceived and requires to be rejected. The determination of pay-scales for various posts in any organization depends upon various factors. The petitioner's claim for revision of pay solely on the basis of parity of pay maintained earlier cannot be countenanced. Besides, the claim for revision of pay with effect from 1st January, 1980 made in the present

petition requires to be rejected on the ground of delay and laches also. Such a claim made in the present petition preferred under Article 226 of the Constitution of India shall not be maintainable.

In my view, the determination of pay-scale depends upon complex factors and can best be decided by the administration. The claim made in the present petition cannot be countenanced. The petition is dismissed with cost. Rule is discharged.

(Ms. R.M.Doshit, J.)

/sakkaf